



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed March 28, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Green County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on July 22, 2015. Three hearings previously scheduled in May and June were rescheduled at petitioner's request.

The issue for determination is whether the respondent correctly reduced petitioner's FS allotment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Green County Department of Human Services
N3152 State Road 81
Monroe, WI 53566

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Green County.
2. Petitioner has resided at his present address since at least 2010. Petitioner's residence is owned by his parents.

3. In 2010, the respondent found petitioner eligible for FS benefits. In determining his FS budget and allotment, the respondent incorrectly budgeted a utility deduction despite knowing that petitioner was not paying rent or utilities at his residence.
4. On December 2, 2014, the respondent notified petitioner that as of January 1, 2015, petitioner's FS allotment would be reduced from \$194.00 to \$137.00 due to the reduction in the petitioner's budgeted utility deduction.
5. Petitioner filed an appeal of this reduction on March 28, 2015.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1, such as the petitioner, is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

Back in 2010, the respondent calculated the petitioner's monthly FS benefits incorrectly. The respondent erroneously gave the petitioner a deduction for utility costs by mistakenly inputting information indicating that petitioner was a recipient of the Wisconsin Home Energy Assistance Program (WHEAP). The petitioner confirmed that he has not been a recipient of WHEAP benefits. Following its discovery of its error, the respondent recalculated petitioner's FS budget. It determined that the petitioner was eligible for \$137.00 in monthly FS benefits. I have reviewed the calculations, and have determined that this new calculation is correct.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's FS benefits for December 2014 and January 2015 in the amount of \$194.

THEREFORE, it is

ORDERED

That this petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

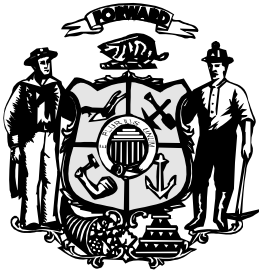
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 28th day of July, 2015

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 28, 2015.

Green County Department of Human Services
Division of Health Care Access and Accountability